

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: DAVOL, INC./C.R. BARD, INC.,
POLYPROPYLENE HERNIA MESH
PRODUCTS LIABILITY LITIGATION

Case No. 2:18-md-2846

JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Kimberly A. Jolson

This document relates to:
Cone v. CR Bard et al.,
Case No. 2:19-cv-3422

OPINION AND ORDER

On August 7, 2019, Plaintiff Melissa Cone filed a complaint in this multidistrict litigation (“MDL”). (ECF No. 1.) Pursuant to this Court’s Case Management Order (“CMO”) No. 8, “[e]ach Plaintiff in an action in MDL 2846 shall complete and serve upon Defendants via email a completed [Patient Profile Form (“PPF”)] . . . along with all duly executed authorizations for the release of relevant medical records, within 60 days after Defendants serve their Short Form Answer upon a Plaintiff.” (Case No. 18-md-2846, ECF No. 57 at PageID #895.) Defendants filed their Short Form Answer on November 22, 2019. (ECF No. 2.) Plaintiff did not produce a PPF within 60 days as required by CMO No. 8 and has not corrected this defect. Defendants filed a Motion to Dismiss the case based on Plaintiff’s failure to produce a PPF. (ECF No. 3.) The Court held the Motion in abeyance pending Plaintiff’s timely motion to substitute following the death of Plaintiff Melissa Cone. (ECF Nos. 4, 6.) Defendants filed a second Motion to Dismiss on December 23, 2021. (ECF No. 7.) Plaintiff did not file a timely motion to substitute or a response in opposition to the renewed Motion to Dismiss, therefore the Court will treat the Motion as unopposed. *See* Local Civil Rule 7.2 (“Any memorandum in opposition shall be filed within twenty-one days after the date of the service of the motion.”). Accordingly, Defendants’ Motion

to Dismiss is **GRANTED** and Plaintiff's case is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

2/11/2022
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE